



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Stewart-Warner Electronics Corporation

File: B-235774.3

Date: December 27, 1989

DIGEST

1. Protest that Navy evaluators were required to quantify their evaluation of proposals under Navy regulations that allow paying premiums for "measured increments of quality" is denied, where the record shows that evaluators made independent determinations of the strengths and weaknesses of proposals in a number of subfactors within each technical factor set forth in the request for proposals, and the evaluations were supported by both qualitative statements and point scores representing as accurately as possible the quality of each proposal in each evaluation subfactor.
2. Protest based upon minor discrepancies found in evaluation documents related to evaluation of protester's initial proposal is denied, where alleged discrepancies either are adequately explained by the contracting agency or discrepancies had no effect on the ultimate selection.
3. Contracting officer properly decided to award a firm, fixed-price contract to the offeror of the higher-rated, higher-priced proposal, where: (1) the solicitation stated that technical factors would be considered significantly more important than price; (2) the awardee's proposal was rated higher than the protester's in every technical evaluation factor; and (3) the awardee's proposal received a higher overall evaluation score when the weighted technical and price evaluation scores were combined.

DECISION

Stewart-Warner Electronics Corporation protests the Navy's award of a contract for production of the AN/APX-100(V)

047386/140303

Identification Friend or Foe Transponder^{1/} and related items to Allied-Signal, Inc., pursuant to request for proposals (RFP) No. N00019-88-R-0131, issued by the Naval Air Systems Command (NAVAIR). Stewart-Warner contends that the Navy did not evaluate proposals in accord with the RFP's evaluation criteria and pertinent Navy regulations. Basically, the protester argues that the Navy improperly awarded the contract to Allied-Signal even though Allied-Signal's price was significantly higher than the price proposed by Stewart-Warner.

We deny the protest.

The RFP was issued on October 20, 1988, and requested proposals for production of certain firm quantities during the base contract year and contained options for additional quantities over the next 5 years. The RFP contemplated award of a firm, fixed-price contract and stated that offers would be evaluated on the basis of both technical and price factors with technical factors considered significantly more important than price. The RFP also advised that price proposals would be evaluated for reasonableness and that for evaluation purposes price would be "the sum of the prices proposed for the firm and most likely option quantities that will be exercised under the contract."

Fifty-two sources were solicited, and offers were received from three firms by the December 29 closing date. After evaluation of initial proposals, all three offers were determined to be in the competitive range. In February, 1989, NAVAIR officials conducted on-site visits of each offeror's facilities and adjusted the evaluation scores given the initial technical proposals accordingly. Written discussions were conducted in March, and best and final offers (BAFOs) were received from all three offerors by April 7.

The evaluation team rated Allied-Signal's BAFO highest on technical merit; its total evaluated price was also the highest. Stewart-Warner's BAFO was rated second-highest on technical merit; its total evaluated price was second-highest. The procurement review board determined that Allied-Signal's proposal was superior to the other two

^{1/} The AN/APX-100(V) transponder is a multi-service, multi-platform receiver-transmitter which provides flight information for the civilian and military air traffic control radar system. Its primary military purpose is to identify aircraft as being a friend or foe when approaching or traversing a defended zone.

firms' proposals and recommended that the contract be awarded to Allied-Signal. The contracting officer concurred in the procurement review board's recommendation, concluding that the advantages inherent in the extra technical merit of Allied-Signal's proposal outweighed the lower prices of the other two offers. Accordingly, on May 16, 1989, the contracting officer awarded the contract to Allied-Signal.^{2/}

Stewart-Warner first argues that the Navy did not follow its own regulations which allegedly require procurement officials to quantify any perceived differences in technical merit between offerors' proposals in order to ensure that the Navy only pays "appropriate premiums for measured increments of quality." We disagree.

The Navy Acquisition Regulations Supplement § 5215.605(2), May 6, 1988, 53 Fed. Reg. 16,280, 16,281 (1988), and the Navy Acquisition Procedures Supplement § 15.605(91), both contain the same provision, upon which Stewart-Warner relies for support, regarding evaluation factors. The regulations state:

"Technical criteria may include quality standards that are based on either a minimally acceptable approach or a cost/benefit approach. When the quality desired is that necessary to meet minimum needs, proposals should be evaluated for acceptability and award should be made to the lowest priced, technically acceptable offer. When the quality desired is the highest affordable or that representing the best value, proposals should be evaluated on a cost/benefit basis that would permit an award based on paying appropriate premiums for measured increments of quality. When a cost/benefit approach is used, cost must carry a weight of not less than 40% unless thoroughly justified."

Our in camera review of the evaluation documents reveals that, contrary to the protester's argument, the Navy evaluated proposals submitted in this procurement exactly as it was required to evaluate them under the above Navy regulations and the evaluation scheme set forth in the RFP.

^{2/} On June 6, 1989, Stewart-Warner protested to our Office alleging, among other things, that the Navy's discussions with the firm were not meaningful. We denied Stewart-Warner's initial protest in our decision Stewart-Warner Corp., B-235774, Oct. 5, 1989, 89-2 CPD ¶ 314.

The RFP specifically stated that technical factors would be considered significantly more important than price, plainly indicating that award would be made using a cost/benefit approach. The RFP stated that offers would be evaluated on the following technical factors, listed in descending order of importance: engineering, quality assurance, manufacturing, logistics, and management/relevant past experience. Price was to be evaluated as the sum of the firm and most likely option quantities that would be exercised under the contract. The RFP specifically reserved to the Navy the right to award to other than the lowest-priced offeror.

The evaluation documents show that, in accord with the above regulations, NAVAIR gave the technical evaluation factors a total weight of 60 percent in the evaluation scheme while price was given a weight of 40 percent. NAVAIR evaluated proposals in each of the five technical factors listed in the RFP, and each technical factor was weighted consistent with the RFP's listing in descending order of importance.

Within the 5 technical factors, NAVAIR actually evaluated proposals on a total of 31 technical subfactors. The record shows that the technical evaluation team, comprised of Navy personnel from outside of NAVAIR, specifically rated each proposal on each subfactor and, in addition to narrative descriptions of the strengths and weaknesses of each proposal, gave a point score reflecting their judgments of the quality of each proposal on each subfactor. Thus, the technical evaluation team members were directed to document their independent judgments regarding the technical quality of proposals in both a qualitative and quantitative format. The evaluators' independent determinations were then given to the technical evaluation team chairman who prepared a summary report for the procurement review board chairman on the collective judgments of the evaluators.

In our view, the evaluation was conducted in strict accord with the above-quoted Navy regulations. While each evaluator was called upon to reach many subjective conclusions regarding the technical quality of proposals on various evaluation factors, the conclusions were required to be supported by qualitative statements and were reduced to numerical scores representing as accurately as possible the degree of technical quality attained by each proposal in each subfactor. Contrary to the protester's assertion, the Navy did its best to quantify the evaluators' assessments for the purpose of selecting the proposal that represented the best value to the government. In our view, that is all that is required by the term "measured increments of quality" contained in the Navy regulations.

Stewart-Warner next alleges that there are a number of discrepancies in the evaluation documents supplied to it by the Navy. The protester charges that these discrepancies show that the Navy's technical evaluation of Stewart-Warner's proposal was fraught with errors and that, if the inconsistencies are corrected, the evaluation documents will show that the contract should have been awarded to Stewart-Warner. We do not agree.

The evaluation of proposals is the function of the procuring agency, requiring the exercise of informed judgment, and it is not our function to conduct a de novo review of proposals or to make an independent determination of their relative merits. We will question a procuring agency's technical evaluation only if the protester shows that the evaluation was clearly unreasonable. Kay and Assocs., Inc., B-228434, Jan. 27, 1988, 88-1 CPD ¶ 81.

The discrepancies to which Stewart-Warner refers are discrepancies between the team status report of February 2, 1989, compiled by the technical evaluation team, and the summary narrative report of February 2, 1989, issued to the procurement review board chairman by the chairman of the technical evaluation team. Both documents report on the findings of the evaluators regarding Stewart-Warner's initial proposal. The summary narrative report purports to be a summary of the detailed scoring of Stewart-Warner's technical proposal by the technical evaluation team, and, thus, the two documents should be consistent.

The first discrepancy is that the team status report shows Stewart-Warner's proposal as "highly satisfactory" in the engineering design and development subfactor, while the chairman's summary report states that Stewart-Warner's proposal received only a "satisfactory" rating on this subfactor. The Navy admits that an error was made when the adjectival scores were copied in writing the summary report. However, the Navy points out that the adjectival score was merely used to describe in general terms the technical merit of a proposal in a particular subfactor and the award was actually based upon the numerical scores given by the evaluators.

We agree with the Navy on this point. The evaluation documents show that the eventual awardee was determined by conducting a cost/technical analysis that relied strictly upon the numerical scores assigned by the evaluators, and the numerical scores were carried forward correctly. Furthermore, the error is found only in the initial evaluation documents. Since Stewart-Warner's BAFO received

an adjectival rating of highly satisfactory for this subfactor. The transcription error had no effect on the outcome of the competition.

The second alleged discrepancy is that the team status report rates Stewart-Warner's initial proposal as "satisfactory . . . low risk" on the management and past performance evaluation factor, but the chairman's summary report states that the proposal was "satisfactory with medium risk" for this factor. The Navy reports that the chairman of the technical evaluation team changed the adjectival rating from low risk to medium risk to reflect more accurately the perceived risk.

The evaluation documents show that Stewart-Warner's proposal was rated as low risk in 7 of the 8 evaluation subfactors within this factor. However, the eighth subfactor, ILS (integrated Logistics Support) management, received a marginal rating with a high risk assessment. The chairman believed that the rating/risk assessment for ILS management, when combined with the other subfactors, merited a medium risk assessment to represent more accurately the overall risk for this factor. As the change was made in the evaluation of the initial proposal and, more importantly, as the final selection was based only on the numerical scores, and not risk assessment, given by the evaluators, we do not believe that Stewart-Warner's competitive standing was affected by the chairman's actions.

The next alleged deficiency concerns Stewart-Warner's quality assurance program (MIL-STD-1535A). The RFP did not require that offerors have a compliant MIL-STD-1535A program in place, but did require offerors to provide a schedule and detailed plans regarding how such a program would be implemented. Stewart-Warner complains that, although this program was pertinent to two evaluation subfactors (quality assurance/quality program requirement and manufacturing/subcontractor/vendor selection), the evaluators upgraded Stewart-Warner's evaluation score on the quality assurance/quality program requirement as a result of discussions, but did not upgrade the firm's score in the manufacturing/subcontractor/vendor selection subfactor even though Stewart-Warner proposed the same implementation plan. Stewart-Warner believes it should have been upgraded in both subfactors, and that the disparate ratings in the two subfactors based on the same submissions were clearly arbitrary.

The Navy explains that there are two aspects to MIL-STD-1535A--quality assurance requirements and manufacturing requirements. Quite simply, the evaluators were satisfied

with Stewart-Warner's post-discussions submissions concerning the quality assurance aspects of its proposal and increased the rating in the quality assurance subfactor accordingly. However, the evaluators were not satisfied with Stewart-Warner's post-discussions submissions concerning manufacturing requirements and, therefore, did not upgrade Stewart-Warner's score in the manufacturing subfactor.

We do not find the Navy's evaluation to be unreasonable. While the quality assurance program requirement had an effect on at least two evaluation factors, it would affect each in a different way. Regarding manufacturing, the evaluators did not believe that Stewart-Warner adequately demonstrated that its MIL-STD-1535A program would be in place in time to order certain long lead time items. Regarding quality assurance, however, the evaluators were satisfied that Stewart-Warner had adequately shown how it would meet the RFP's requirements. Thus, the evaluators properly rated the two factors differently. We find nothing improper in this aspect of the evaluation.

The last alleged discrepancy or erroneous scoring we will discuss in detail concerns the rating given to Stewart-Warner's BAFO in the logistics evaluation factor. The protester contests the ratings given its proposal on two subfactors under logistics--ILS planning and design interface. Stewart-Warner's initial proposal received marginal ratings on both.

The Navy believed Stewart-Warner's initial proposal to be deficient in ILS planning, because Stewart-Warner had proposed to develop a new maintenance plan but the Navy only wanted revisions of the existing plan. Stewart-Warner's proposal was evaluated as deficient in design interface, because Stewart-Warner had proposed to perform analysis and prepare reports in accord with the wrong military standards. Accordingly, NAVAIR raised its concerns with Stewart-Warner during discussions. The Navy reports that it intended to ask Stewart-Warner a discussion question concerning what tasks the firm intended to perform relating to ILS planning, but, because of a typographical error, asked what tests the firm would perform instead. Thus, as the Navy did not put Stewart-Warner on notice of its real concern regarding ILS planning, the Navy reports that it upgraded Stewart-Warner's rating from marginal to highly satisfactory for this subfactor. As the Navy's report does not address the design interface subfactor, it appears the Navy does not believe that the typographical error had any effect on the scoring on this subfactor.

Stewart-Warner complains that it should have been given the highest rating (i.e., outstanding/100 percent) for both ILS planning and design interface to compensate for the Navy's error which prevented it from providing sufficient revisions to its BAFO. We do not agree.

Stewart-Warner wants perfect scores for both subfactors. In our opinion, such high scores would be completely out of line with the scores Stewart-Warner received in the other 29 subfactors and there is no justification in the record for such great increases in Stewart-Warner's ratings.

Further, regarding design interface, the Navy specifically asked Stewart-Warner what standards the firm would use to perform logistics support analysis and to prepare reports. Clearly, this question should have put Stewart-Warner on notice of the deficiency NAVAIR found in its initial proposal. Furthermore, the evaluation documents show that Stewart-Warner corrected the deficiency, and, as a result, its rating increased from marginal/55 percent to satisfactory/75 percent in design interface.

Regarding ILS planning, the Navy has provided information which shows that, even if it had given Stewart-Warner a perfect score for the ILS planning subfactor, Stewart-Warner would not have displaced Allied-Signal as the winning offeror. Accordingly, we find that the Navy reasonably attempted to compensate Stewart-Warner for the discussions error, and we find that Stewart-Warner has not been competitively prejudiced by the Navy's actions. See KET, Inc.--Request for Reconsideration, B-190983, Jan. 12, 1981, 81-1 CPD ¶ 17.

The remainder of the alleged discrepancies really are nothing more than arguments that the Navy's evaluation was incorrect. Basically, Stewart-Warner asserts that its revisions should have resulted in an upgrading of its evaluation score. However, the protester's mere disagreement with NAVAIR's evaluation of its BAFO is not sufficient to find the evaluation to be unreasonable or otherwise improper. See The Int'l Ass'n of Fire Fighters, B-224324, Jan. 16, 1987, 87-1 CPD ¶ 64.

Finally, Stewart-Warner argues that the Navy improperly awarded the contract to Allied-Signal even though Allied-Signal's evaluated price was more than \$2 million higher than Stewart-Warner's evaluated price for the firm and option quantities. Stewart-Warner contends that Allied-Signal's BAFO was evaluated as only slightly superior to Stewart-Warner's BAFO on technical merit, and that the

Navy's slightly higher technical rating of Allied-Signal's proposal could not possibly merit the higher price.

In negotiated procurements, unless the RFP so specifies, there is no requirement that award be based on lowest cost. Comarco, Inc., B-225504, et al., Mar. 18, 1987, 87-1 CPD ¶ 305. A procuring agency has the discretion to select a more highly rated technical proposal if doing so is reasonable and is consistent with the evaluation scheme set forth in the RFP. Id. We have upheld awards to higher rated offerors with significantly higher proposed costs where it was determined that the cost premium was justified considering the significant technical superiority of the selected offeror's proposal. See BDM Management Services Co., B-228287, Feb. 1, 1988, 88-1 CPD ¶ 93.

Here, the RFP specifically stated that technical factors would be considered significantly more important than price, and reserved to the Navy the right to make award to other than the lowest-priced offeror. The record shows that the Navy weighted technical evaluation factors at 60 percent of the total evaluation, while price was only weighted at 40 percent. The evaluation documents further reveal that the Navy evaluated the proposals on 31 technical subfactors within the 5 technical factors, and that the technical factors were weighted in accord with the weighting scheme set forth in the RFP.

Allied-Signal's BAFO was rated approximately 9 percent better technically than Stewart-Warner's BAFO, while Allied-Signal's price was evaluated as only about 6.6 percent higher than Stewart-Warner's. Moreover, our in camera review of the evaluation documents shows that Allied-Signal's BAFO was rated higher than Stewart-Warner's BAFO in all five technical evaluation factors. Even though Stewart-Warner received a higher score in the price factor by virtue of its lower evaluated price, Allied-Signal received the highest overall score when the weighted price and technical scores were combined. In view of the RFP's emphasis on technical factors rather than price, we find that the Navy's cost/technical tradeoff was rational and consistent with the RFP's evaluation criteria. See Todd Logistics, Inc., B-203808, Aug. 19, 1982, 82-2 CPD ¶ 157. In sum, we find that the award to Allied-Signal was proper.

The protest is denied.


James F. Hinchman
General Counsel